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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------------|------------------|
| 10/643,247 | 08/15/2003 | Etienne Douw Visser | JG0737US (#90578) | 3591 |
| 7590 05/16/2006 D Peter Hochberg Co., L.P.A. 1940 East 6th Street Cleveland, OH 44114-2294 | | | EXAMINER A, PHI DIEU TRAN | |
| | | | ART UNIT 3637 | PAPER NUMBER |

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/643,247

Applicant(s)

VISSER, ETIENNE DOUW

Examiner

Phi D. A

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 11-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species: figure 1, figure 2, figure 6, figure 7, and figure 8. The species are independent or distinct because they each contain structural elements not require of the other.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and

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specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

2. Newly submitted claims 11-13 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the claims are to figure 2, figures 6-8

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 11-13 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1-2, 4, 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Ryon et al (5893237).

Ryan et al (see attached) shows a structure comprising at least three structural units, each of said at least three units consisting of three inflatable legs (21, 22, and the apical leg) constituting two support legs and an apical leg, each leg having a free end and an inner end (see attached), the inner ends of the three legs being joined at a center point, the legs being arranged in more than one plane to define a tetrahedron with the three legs lying on three adjacent edges of the tetrahedron and with adjacent pairs of legs lying in planes of three sides of the tetrahedron, the free ends of the legs defining the fourth side of the tetrahedron, the apical legs of the units are joined to corresponding legs of the other units at a join position (see attached), the three legs of each unit are of the same length (figure 7), the legs are straight, a connector unit (13) is provided at the free end of at least one of the legs of each element, the apical legs are all joined directly together (at 12''), some of the apical legs being connected to other legs (not an apical leg) through an intermediate beam (see attached), the outer ends of the legs are shaped complementary to permit interconnection of the structural elements along the axial angle of the completed structure (inherently so as the apical leg connected to each other and are thus complementary).

3. Claims 1, 3-4, 7-8, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Williamson et al (3913105).

Williamson et al (see attached) shows a structure comprising at least three structural units, each of said at least three units consisting of three inflatable legs (see attached) constituting two support legs and an apical leg, each leg having a free end and an inner end, the inner ends of the three legs being joined at a center point, the legs being arranged in more than one plane to define a tetrahedron with the three legs lying on three adjacent edges of the tetrahedron and with

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adjacent pairs of legs lying in planes of three sides of the tetrahedron, the free ends of the legs defining the fourth side of the tetrahedron, the apical legs of the units are joined to corresponding legs of the other units at a join position (see attached), two of the legs of the same length and the third leg being of a different length (second leg and apical leg being same length, the first leg is shorter), each leg is straight, a connector unit is provided at the free end of at least one of the legs of each element, the apical legs are all joined directly together (see attached), the outer ends of the legs are shaped complementary to permit interconnection of the structural elements along the axial angle of the completed structure (inherently so as the apical leg connected to each other and are thus complementary).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryon et al (5893237) in view of Thallemer (5743049).

Ryon et al shows all the claimed limitations except for each leg comprising a plastic reinforced by woven fabric, the warp of the fabric is aligned with the tube axis.

Thallemer shows supporting legs each comprises a plastic reinforced by a woven fabric (col 7 lines 51-55), the warp of the fabric is aligned with the tube axis.

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It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Ryon et al's structure to show each leg comprising a plastic reinforced by woven fabric, the warp of the fabric is aligned with the tube axis because it would reinforce the tubular members against breaking and leaking as taught by Thallemer.

Response to Arguments

6. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different frame configurations.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

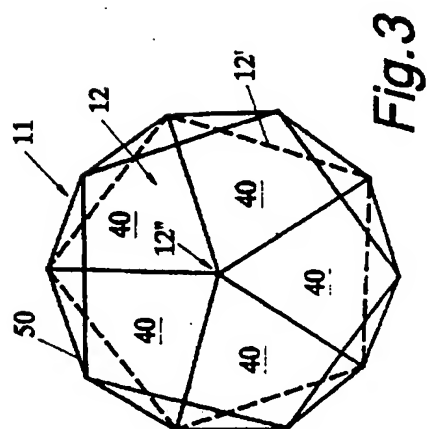
Phi Dieu Tran A

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5/13/06

LANNA MAI
SUPERVISORY PATENT EXAMINER
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Lanna Mai



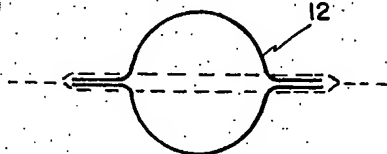
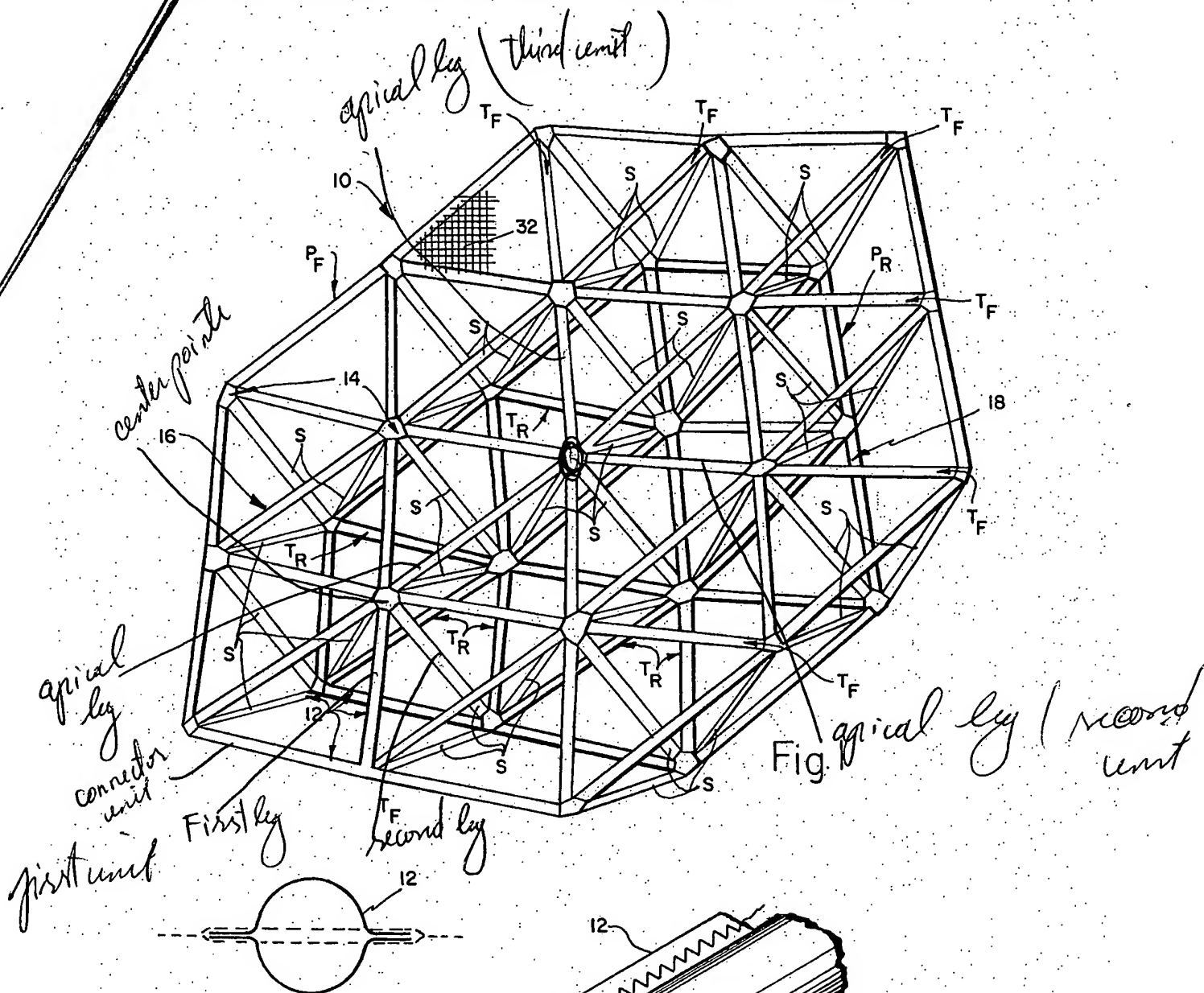


Fig. 3

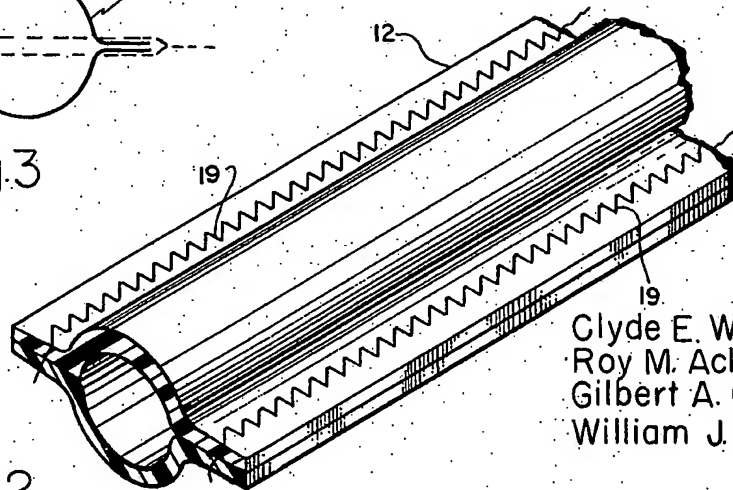


Fig. 2

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